IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 257 OF 2003

B.K. Birla Centre for Education .... Petitioner

versus

Chief Executive Officer, Zilla Parishad,
Pune and ors. ... ... Respondents.

Shri Dinesh Purandare with N. Dilla and Ms. Arachana
Bhanusali i/b Hariyani & Co. for the petitioner.
Shri N.A.Deshpande for Respondent no.1.
Mrs. A.R.S.Baxi for Respondents 2/3.
Shri S.R.Nargolkar AGP for Respondent no.4.

CORAM; V.G. PALSHIKAR Acg.C.J.&
V.M. KANADE, J.

DATED; 8TH AUGUST, 2006.

P.C:

1. By this petition, the petitioner, which is an educational institution has challenged the levy of property tax on its buildings situated within the limits of Gram Panchayats, Shirgaon and Gahunje. The petitioner institution has several buildings in Shirgaon and Gahunje panchayat where they are conducting residential schools for boys. For running of these schools they have several buildings. From the very title of the school it is obvious that it is a residential school. Consequently buildings for residential accommodation for boys studying therein is

definitely be charged. The contention of the petitioner therefore is that even under the rules the buildings of the petitioner are exempted from levy of any such charges. Therefore the impugned communications are liable to be quashed.

2. The concerned rule is Rule 7.1 and 2(c) which reads as under:

Rule 7.1 and 2(c):

Rate of Tax on buildings and lands:-

(1) Every Panchayat which decides to levy a tax on buildings and lands shall subjkect to the provisions of sub - rule (2) and after following the procedure prescribed in rules 3 and 4 levy it at such rate based either on the capital value or on the annual letting value of the lands and building, as may be decided by it, but not below the minimum and not exceeding the maximum rate, specified in the Schedule annexed this part.

(2) The following lands and buildings shall be exempted from levy of tax under sub - rule (1) namely:-

(c) lands and buildings used soly for religious, educational or charitable purpose:

3. From the above, it will be seen that it has been legislated that the buildings and the lands of the above stated description shall be exempted from levy of tax. Consequently according to the petitioner, lands and buildings of the petitioner used for the educational purposes are liable to be exempted.

4. This contention of the petitioner has contested by the Gram Panchayat basically on the interpretation of the said rules. According to the Gram Panchayat, the property tax is leviable on the properties, which are not used solely for educational purposes. The contention seems to be that only those buildings where educational activities go on are exempted and not the buildings though will be necessary for imparting education for the students in that educational institution. Apart from the fact that we are unable to accept this submission. This very rules have been interpreted by this court in two judgments. The first judgment is in **Sir Jamshethee Jeejeebhoy Vs. State of Maharashtra reported in 2004 (4) Mh.L.J. page 208** wherein considering this very rule, it was observed by this court that the land and the buildings used for

ancillary pourpose and specifically for educational purposes are also covered by the exemption. Following this decision again the same view was adopted by this court in a case in **Kasturba Health Society Vs. State of Maharasthra and others reported in 2005 (2) Mh.L.J. page 65,** we are in respectful aqgreement with the said view. We are also of the opinion that the buildings used for ancillary and supportive purposes are for the basic pur poses of imparting education to the students. The petition therefore succeeds and is allowed. The impugned notifications are set aside. There shall be no order as to costs.

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